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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/713,985

11/14/2003

James E. Drake SR.

BLT1841

1527

30245

7590

07/05/2006

ANTHONY EDW. J CAMPBELL

PO BOX 160370

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/713,985

Applicant(s)

DRAKE, JAMES E.

Examiner

James R. Brittain

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13,15,17 and 18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,3-13,15,17 and 18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 12 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of the claims is withdrawn in view of the newly discovered reference(s) to Flippin, Jr. (US 6223759) and Shingles (US D381847). Rejections based on the newly cited reference(s) follow. The inconvenience to applicant is regretted.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-10, 13, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flippin, Jr. (US 6223759) in view of either Shingles (US D381847) or Clarke (US 123380).

Flippin, Jr. (figure 3) teaches the combination of an umbrella that has a ring 35 to receive the canopy of the closed umbrella to prevent the umbrella from opening and a handle comprising a proximal end and a distal end, wherein the distal end is coupled to the ring 35 and the proximal end comprises the hand grip 38. The difference is that the proximal end does not comprise a portion clearly extending perpendicular to the distal end. However, Shingles (figures 3, 4, 6) teaches an umbrella holster structure including a handle clearly extending perpendicular to the distal end that connects to the holster for the umbrella so as to be easier to manipulate. Further, as Flippin, Jr. indicates that art appropriate for combination with Flippin, Jr. would include holder art for the open umbrella and Clarke (figures 1, ) teaches a support for an umbrella

Art Unit: 3677

comprising a ring defining an opening, E, wherein the ring comprises a continuous circle and handle A, M, N, wherein the handle comprises a proximal end and a distal end, wherein the proximal end is substantially perpendicular to the distal end, wherein the distal end is flexibly coupled to the ring, and wherein the proximal end is adapted to be held in a user's hand. The base, M, is inherently capable of being manipulated as a handle. As it would be beneficial to make the handle of the umbrella holder of Flippin, Jr. easier to manipulate it would have been obvious to modify the holder of Flippin, Jr. so that the handle extends perpendicularly as taught by Shingles in an umbrella holder so as to be easier to manipulate or a taught by Clarke to be easier to provide a support on a horizontal surface. As to claim 3, the device of Flippin, Jr. can obviously be raised so that the ring 35 extends above the umbrella when held in a vertical orientation. In regard to claims 7 and 10, applicant shows in the figures that the table is not a part of the claimed configuration through the use of dashed lines for the table and these claims are considered to be claims indicating a capability of the device to be used in such a configuration and the devices of Flippin, Jr. and Shingles or particularly Clarke possess such a capability. As to claims 15 and 17, the further difference is that the ring is not decorated by having ornaments fitted into cutout areas. However, decoration for aesthetic appearance is a common improvement and applicant is given Official Notice that the use of trim within openings of a ring for decorative purposes is well known in the art as a matter of improved aesthetic appearance.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flippin, Jr. (US 6223759) in view of Shingles (US D381847) as applied to claim 10 above, and further in view of JP 2003-49417.

Art Unit: 3677

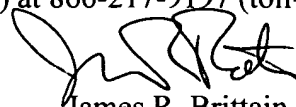
Further modification of the device of Flippin, Jr. such that the handle lacks an aperture to allow it to be more easily manipulated. It would have been obvious to modify the device of Flippin, Jr. as modified above so that the base has an aperture to permit it to be more easily manipulated by hand in view of JP 2003-79417 (figures 3, 5) in which a holder for an umbrella has a handle with an aperture therein to permit easier manipulation by hand.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB